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September 23, 2009
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appl. No.	:	11/567,634
Applicant(s)	:	Gudenfels, et al.
Filed	:	February 8, 2006
Title	:	Device For Retaining A Headed Pivot Rod
TC/A.U.	:	3651
Examiner	:	Mark A. Deuble
Docket No.	:	031529.00106

REPLY BRIEF

Mail Stop Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
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Sir:

This Reply Brief is in response to the Examiner's Answer mailed July 23, 2009. If any fees are required in order to have this Reply Brief entered and considered, the Director is hereby authorized to charge such fees to Deposit Account 08-2442.

RESPONSIVE ARGUMENT

I. The connecting pin of Nakamura is a headless pivot rod.

In light of and in addition to the arguments presented in Appellant's Appeal Brief (dated April 17, 2009; hereinafter the "Appeal Brief"), Appellant provides this response to the Examiner's assertion that Nakamura discloses the use of a sliding retainer with both headed and headless pivot rods. Examiner's Answer at page 7, lines 10-12.

At issue is the claim term "connecting pin." See, e.g., Nakamura at claim 1. The Examiner argues in the Examiner's Answer that the "generic" term "connecting pin" may refer to either a headed or a headless pivot rod. However, Appellants contend that "the meaning of a claim term as understood by persons of skill in the art is often not immediately apparent." Edward H. Phillips v. AWH Corp. et al., 415 F.3d 1303, 1314, 75 U.S.P.Q.2d 1321, , (Fed. Cir. 2005). In the Phillips case, the Court emphasized the use of intrinsic evidence (including the claims, the specification, and the prosecution history) over extrinsic evidence in interpreting claim terms.

The specification of Nakamura informs the interpretation of the meaning of "connecting pin" in two ways. Firstly, each and every figure provided in Nakamura shows the connecting pin to be headless. See Nakamura at Figures 1-7; see also Examiner's Answer at page 7, lines 9-10 (". . . it is recognized that the illustrated pivot rod of Nakamura is indeed headless.") Secondly, the claims and specification of Nakamura describe the connecting pin C passes through pin hole 15. See, e.g., Nakamura at col. 3, line 13. Feature 15 of Nakamura shows a hole through which the connecting pin C passes and where the claimed retainer operates to retain the connecting pin C in place. If the connecting pin C were a headed pivot rod, the pin hole on the corresponding link element would necessarily be a smaller diameter in order to seat the head of the pivot rod. Such an arrangement is described in the application at page 6, line 23 – page 7, line 8, wherein it states:

> "As shown in the cut-away section of Fig. 1, module 13 has an enlarged opening 51 sized to receive a head portion 106 of a pivot rod 103. Apertures 47 and 48 are smaller in diameter than the diameter of the head portion 106. As shown, the enlarged opening 51 is larger than apertures 48 of the adjacent module such that when the modules 13 and 16 are intercalated a ledge 52 is created and the pivot rod 103 is obstructed by the smaller opening 47."

On the other hand, Nakamura shows, in Fig. 1, that the pin hole 15 is the same on either side of the link element B. Therefore, a "ledge" would not be created and a headed pin would not function properly.

For these reasons, the claim term "connecting pin" of Nakamura should not be expanded beyond the scope of the invention as described in the specification—the "connecting pin" of Nakamura is a headless pivot rod.

Belts using headless pivot rods need locks on both sides of the pivot rod. Alternatively, the belt module configured for a headless pivot rod may have a permanently blocked pivot hole at a distal end such that a pivot rod may not migrate out of the belt module from the distal end. Headed pivot rods do not require such configurations, since it is the head, at the proximal end, which prevents further movement of the pivot rod. A headed configuration has the added benefit of allowing easier removal of the pivot rod.

One would not combine the teachings of Nakamura, relating to headless pivot rods, to either Costanzo or Guldenfels, which describe the use of headed pivot rods. Appellant respectfully requests reversal of the rejection.

II. Verdigets et al. describes shuttle plugs for retaining headless pivot rods.

In light of and in addition to the arguments presented in the Appeal Brief, Appellant provides this response to the Examiner's assertion that the specification of Verdigets et al. does not describe the pivot rods as headed or headless.

At page 8 of the Examiner's answer, it is stated that "the specification does not describe the pivot rods as headed or headless pivot rods, instead simply referring to generic 'pivot rods.'" The Examiner then cites Verdigets et al. at col. 1, lines 40-45 as supporting this contention. However, the very portion of Verdigets et al. cited by the Examiner (and quoted in the Examiner's Answer) limits the pivot rods as "headless." See Verdigets et al. at col. 1, line 42. Such limitation is made in multiple portions of Verdigets et al. including, but not limited to, the title, the abstract, and the preamble of claim 1.

For the reasons mentioned above with respect to Nakamura, one would not combine the teachings of Verdigets et al., relating to headless pivot rods, to either Costanzo or

Guldenfels, which describe the use of headed pivot rods. Appellant respectfully requests reversal of the rejection.

III. Neither Guldenfels nor Costanzo disclose "an edge portion pivot rod opening having a diameter larger than a diameter of the first and second pivot rod openings" as required by each claim of the application.

At page 3 of the Examiner's answer, it is asserted that both the Guldenfels and Costanzo references disclose an "enlarged opening." However, neither Guldenfels nor Costanzo disclose an edge portion pivot rod opening as claimed in the current application.

While limitations on claims should not be imported from the specification, the specification does shed light on the meaning of claim terms. When read in light of the specification, the edge portion pivot rod opening claimed in the application is a through hole of a diameter sufficient to allow the head portion 106 of a pivot rod 103 to pass through the edge portion pivot rod opening 51 and be obstructed by the ledge 52 created by the smaller diameter of the aperture 47. See application at page 6, line 23 – page 7, line 8 and Fig. 1.

Neither Guldenfels nor Costanzo disclose this structure. In both Guldenfels and Costanzo, the head portion of the pivot rod is obstructed by a hole in the edge portion of the belt module where the hole in the edge portion has a diameter smaller than the diameter of the head portion. Figs. 2A and 2B of Costanzo, and Figs. 2, 3, and 9 of Guldenfels show this feature. Specifically, Figs 2A and 2B of Costanzo clearly show that the edge portion of the belt has a hole (36) which is of the same diameter as the holes in each hinge element (32). Similarly, Figs. 2, 5, 5A, 8, and 10 of Guldenfels shows where the edge portion of the belt module is recessed, and the edge portion hole is the same diameter (53) as the holes in the remainder of the link ends (29, 32).

Neither Nakamura nor Verdigets et al. cures this deficiency of Guldenfels and Costanzo. Therefore, none of the cited references, alone or in combination, disclose "an edge portion pivot rod opening having a diameter larger than a diameter of the first and second pivot

rod openings" as claimed in the application and interpreted in light of the specification. Thus, the rejection of claims 1-17 under 35 U.S.C. 103(a) is improper because a *prime facie* case of obviousness has not been made. Appellants respectfully request the reversal of the rejections of claims 1-17.

Respectfully submitted,

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